

REMARKS

Claims 1-65 remain pending in the application. Claims 3-8, 10-15, 44, 46-54, 56 and 58-63 are objected to. By this paper, claims 3, 12, 15, 44, 46, 49, 56, 58, 59, and 62 have been amended to be in independent form and to include all limitations of their base claims and any intervening claims. With these amendments, claims 3-8, 10-15, 44, 46-54, 56, and 58-63 should be in condition for allowance. Recognition of the allowable subject is greatly appreciated.

In view of the above, the allowability of claims 1, 2, 9, 43, 45, 55, 57, and 64 remains at issue. Claims 1, 2, 55, and 57 are rejected under 35 U.S.C. 102(e) as being anticipated by Liddicoat et al. (US 2002/0183838) and claims 9, 43, 45, and 64 are rejected under 35 U.S.C. 103(e) as being obvious under Liddicoat et al. These rejections are respectfully traversed.

The present invention is directed to a mitral valve therapy device placeable in the coronary sinus and that applies an applied force to a discrete portion of the atrial wall of the coronary sinus to in turn concentrate the applied force on a discrete portion of the mitral valve annulus. This results in the reshaping of the mitral valve annulus to desired effect.

Particular notice is directed to FIGS. 2, 3, 4, and 5 where it may be seen that the surface of the device adjacent the atrial wall of the coronary sinus only makes contact with the atrial wall of the coronary sinus within the "discrete portion" to concentrate the applied force thereon. Claims 1 and 55 clearly define the device accordingly. Method claim 43 also defines a corresponding method step.

Liddicoat et al. in the referenced FIGS. 17-20 show and describe a device which makes continuous surface contact with the atrial wall of the coronary sinus along the device's entire longitudinal length. Hence, the referenced device of Liddicoat et al. lacks structure and function as claimed. Since the Liddicoat et al. device makes continuous longitudinal contact, it is incapable of applying a force to "a discrete portion" of the atrial wall of the coronary sinus "to concentrate the applied force" as defined in claims 1 and 55. Nowhere in Liddicoat et al. is such structure and function even suggested.

As a result of the above, it is respectfully submitted that claims 1, 2, 55, and 57 are not anticipated by Liddicoat et al. Favorable reconsideration of claims 1, 2, 55, and 57 is respectfully requested.

Similarly, claim 43 is also considered allowable. Nowhere in Liddicoat et al. is a method even suggested which includes the step of applying a force to a discrete localized portion of an atrial wall of a coronary sinus to obtain force concentration.

Liddicoat et al. reshapes the coronary sinus and mitral valve annulus by implanting a device which occupies the entire coronary sinus cross-section and which has the same shape over its longitudinal length as the shape intended for the coronary sinus. The present invention achieves reshaping of the coronary in a much different way. It applies a force to a discrete portion of the coronary sinus. None of the disclosed embodiments has the same shape as the resulting coronary sinus shape.

As a result, independent claims 1, 43, and 55 and dependent claims 2, 9, 45, 57, and 64 are considered allowable over Liddicoat et al. Favorable reconsideration is again respectfully requested.

Claims 9 and 64 particularly require the device to apply the applied force to a plurality of discrete portions of the coronary sinus. This again is not shown, described, or even suggested in Liddicoat et al. The devices of Liddicoat et al. even point away from the instant invention given the distinct differences in function and structure (continuous contact versus discrete contact). Hence, it is respectfully submitted that claims 9 and 64 are rejected out of hindsight and not in view of any suggestion or teaching in Liddicoat et al. Reconsideration of claims 9 and 64 is respectfully requested.

CONCLUSION

It is respectfully submitted that allowability of all claims in issue, namely, claims 1, 2, 9, 43, 45, 55, 57, and 64 has been clearly demonstrated. Favorable reconsideration of these claims is respectfully requested.

Objected to claims 3, 12, 15, 44, 46, 49, 56, 58, 59, and 62 have been amended into independent form. These claims together with dependent claims 4-8, 10, 11, 13, 14, 47, 48, 50-54, 60, 61, and 63 are hence considered allowable.

Claims 16-42 and 65 are allowed.

As a result, all claims are allowed or are in condition for allowance. Hence, allowance of the application is respectfully urged.

In the event additional fees are due as a result of this amendment, payment for those fees has been enclosed in the form of a check. Should further payment be required to cover such fees you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

If the Examiner believes that a phone interview would be helpful, he is respectfully requested to contact the Applicants' attorney, Richard O. Gray, Jr., at (425) 455-5575.

Dated this 30th day of December, 2003.

Respectfully submitted,

GRAYBEAL JACKSON HALEY LLP



Richard O. Gray, Jr.
Attorney for Applicant
Registration No. 26,550
155 - 108th Avenue NE, Ste. 350
Bellevue, WA 98004
(425) 455-5575